Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Connecticut Department of Public Utility Control Petition for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service Specific Area Code Overlays	)	RM No. 9258
	)	
Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology-Specific Overlay in the 508, 617, 781, and 978 Area Codes	)	NSD File No. L-99-17
	)	
California Public Utilities Commission and the People of the State of California Petition for Waiver to Implement a Technology-Specific or Service-Specific Area Code	)	NSD File No. L-99-36

REPLY COMMENTS OF AT&T CORP.

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REPLY COMMENTS OF AT&T CORP.

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") hereby submits its reply to the comments of other parties on the Notice of Proposed Rulemaking issued in the above-captioned proceedings.[1/]

[1/] Numbering Resource Optimization, Notice of Proposed Rulemaking, FCC 99-122, CC Docket No. 99-200 (rel. June 2, 1999) ("NRO NPRM"). A list of parties submitting comments and the abbreviations used to identify them are set forth in an Appendix to this reply.

INTRODUCTION AND SUMMARY

Congress' goal in enacting the 1996 Telecommunications Act was to speed the deployment of innovative and reasonably-priced telecommunications services by opening all telecommunications markets to competition. Restructuring the national system of number administration is essential to achieve that goal. Replacing the current monopoly-era numbering scheme with one that manages numbers fairly and efficiently will ensure that all carriers have access to the numbering resources they need to meet the skyrocketing demand for telecommunications services, and will help to avoid the dislocations caused by repeated NPA relief.

AT&T stands ready to assist the Commission in working through the technical and policy issues presented by the task of restructuring the national numbering scheme. Moreover, AT&T believes that all parties to this proceeding, including code holders, appreciate the gravity of these issues, and will continue to put forth their best efforts to find reasonable numbering solutions that will mitigate potential negative impacts on consumers. While some commenters imply that carriers have simply refused to implement possible solutions, and will use numbers efficiently only when ordered to by the Commission or state commissions, there is simply no basis for this belief. Carriers are acutely aware of public dissatisfaction with repeated NPA relief. Carriers are equally aware that if they cannot obtain numbering resources, they will be unable to sell the services that their customers demand.

The existing numbering system has been in place for decades, however, and virtually every piece of hardware and software in the public telecommunications network was designed with that system in mind. Given this fundamental fact, solutions to the current number situation will not be instantaneous. Despite the impatience of all parties, workable conservation measures

that will maintain the integrity and reliability that users expect from the public network cannot be developed overnight.

In addition, because of the legacy financial and social investments in the current numbering system, revisions to that system will inevitably impose some costs on every party to this proceeding and to the public at large. However, such costs should be considered as a down payment for the consumer choice and service innovation that free and open competition will bring. The Commission can minimize these costs by adopting uniform number optimization policies promptly.

Much of the Commission's work in adopting workable numbering policies has been made easier because of widespread consensus on the major aspects of number optimization. Most notable is the convergence of opinion on thousands block pooling. Virtually all commenters urge the Commission to implement thousands block pooling as expeditiously as possible, and a vast majority support a continued exemption from pooling requirements for non-LNP-capable carriers. Commenters also largely agree that the benefits of pooling will be greatly enhanced if it is rolled out on an NPA-by-NPA basis, and complemented by rate center consolidation where feasible. Finally, carriers, regulators, and consumer groups alike recognize the need to protect thousands blocks during the transition to pooling. AT&T proposes thousands block management guidelines to protect these blocks without the administrative burdens associated with sequential number assignment.

The Commission can rely on widespread agreement to construct policies for numerous other number administration measures. For instance, all commenters agree on the need for uniform status definitions, and the vast majority support incorporating those definitions into existing industry guidelines. There is also nearly unanimous support for adopting the North

American Numbering Council's (the "NANC's") proposal to adopt a hybrid model of utilization reporting. Virtually, every commenter agrees that carriers should be required to verify need before obtaining growth codes. While AT&T maintains that verification can be achieved with the months-to-exhaust calculation, it proposes a hybrid approach that properly substantiates need while ensuring that carriers have access to the numbers necessary to provide service.

The consensus reached on optimization and other administration issues creates a broad framework for the Commission to follow in adopting policies for restructuring the national numbering system. The major point of disagreement involves the appropriate balance between federal and state authority over number administration. State commissions assert that they should be delegated additional numbering authority based on exigent numbering circumstances in their states and their familiarity with local conditions. In this proceeding, state commissions have asked for additional authority to implement thousands block pooling, reclaim codes, conduct audits, and enforce compliance with guidelines. The Commission has consistently refused to make such delegations, and has correctly maintained its plenary authority over number administration. As the Commission recognizes, a patchwork of state-imposed numbering regimes would significantly impede the provision of telecommunications services nationwide. No party to this proceeding presents evidence that merits deviating from this well-reasoned course.

I. UNIFORM NATIONAL GUIDELINES ARE CRITICAL FOR IMPLEMENTING RATIONAL, EFFECTIVE PROCEDURES FOR NUMBER ADMINISTRATION

The most important step the Commission can take in this proceeding is to reaffirm its longstanding conclusion that a national architecture for number administration is necessary to ensure the continued viability of the North American Numbering Plan ("NANP"). As the

Commission has consistently found, permitting state commissions to proceed with certain numbering administration measures "on a piecemeal basis" could "jeopardiz[e] telecommunications services throughout the country."[2/] Although some state commissions advert to their knowledge of local circumstances as a basis for additional delegated authority,[3/] the Commission has repeatedly rejected this very claim. These commenters offer no other basis to justify a reversal of the Commission's policy regarding the proper distribution of numbering authority. As AT&T has shown, there is no evidence that individual state commissions would be better able than the Commission and the NANC to work through the many technical and administrative issues that must be resolved in order to implement viable number conservation solutions.[4/] The vast majority of the commenters agree that the Commission should continue to

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[2/] Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19022-24 ¶ 21 (1998) ("Pennsylvania Order"). More specifically, national or regional carriers could not contend with widely varying number utilization, reporting, and administrative requirements, or with myriad sets of technical standards for thousands block pooling, without experiencing significantly increased costs and reduced efficiency. See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19533 ¶ 320 (1996) ("Second Local Competition Order").

[3/] See State Outline at 1; Comments of NYDPS at 3 (requesting greater flexibility to implement number optimization strategies best suited for local conditions); Comments of PUCO at 3-4 (same).

[4/] See Comments of AT&T at 8.

direct the development of national guidelines for number administration and should decline to delegate significant new powers to state commissions.[5/]

State commissions have an important role to play in developing and administering numbering policy, and AT&T supports their efforts to discharge those responsibilities.[6/] The Commission must, however, take the leadership role that Congress assigned it in Section 251(e) to guide numerous parties with often disparate agendas to solutions that are practical, effective, and competitively neutral. The Commission also has a crucial role to play in preventing the creation of a patchwork of differing state requirements that could increase carriers' costs, potentially threaten the integrity of the NANP, and impede competiton. AT&T does not contend that state commissions are incapable of crafting workable numbering policies, but rather that the decisions of dozens of autonomous regulatory bodies would inevitably diverge from – and even directly conflict with – one another.

Industry Guidelines. There is widespread consensus among numerous facets of the industry that the national numbering architecture should be based, either in whole or in part, on

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[5/] Accord Comments of AirTouch at 4; Comments of Ameritech at 26; Comments of Bell Atlantic at 39; Comments of BellSouth at 6; Comments of CTIA at 6-7; Comments of GTE at 30; Comments of Nextel at 6; Comments of OmniPoint at 3; Comments of PCIA at 10-13 (urging the FCC to decline to delegate additional authority to the states); Comments of Sprint at 5-6; Comments of USTA at 15-16; Comments of U S West at 4 ("[T]he Commission must not grant states idiosyncratic authority over number optimization . . . especially to the extent those decisions involve number administration design rather then [sic] future deployment of the chosen design."); Comments of VoiceStream at 5-6; Comments of WinStar at 6.

[6/] State commissions' expertise regarding local conditions is especially important for implementing rate center consolidation – one of the most promising optimization methods – and for adopting area code relief decisions. AT&T has also stated that it would not oppose the targeted delegation of authority to a state commission (on an interim basis) in response to a specific, detailed number optimization proposal, which is competitively neutral and otherwise reasonable. See Comments of AT&T at 8.

existing industry guidelines.[7/] The Commission has already decided correctly that it can utilize industry guidelines, and can modify or enhance those guidelines with regulations or recommendations from the NANC when necessary.[8/] Those few that argue that the proposed administrative measures should be codified as Commission rules present no evidence to counter the Commission's conclusion.[9/] These commenters fail to consider how the very process of promulgating specific Commission rules for number administration will slow the implementation of these policies, and thereby delay solutions for the current numbering situation. The Commission should take this opportunity to reiterate its conclusion that guidelines can be modified more rapidly than regulations as conditions and technologies change.[10/]

As amply demonstrated by its record thus far, the NANC, proceeding at a rapid pace to resolve technically complex issues that affect the competitiveness of the entire telecommunications industry, has greatly facilitated the Commission's work in numbering. The NANC's carefully-balanced membership represents the numbering interests of service providers,

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[7/] See, e.g., Comments of Ameritech at 4 (stating that industry guidelines should be accepted by reference in the Commission's rules); Comments of AT&T at 10; Comments of BellSouth at 6; Comments of Cincinnati Bell at 2; Comments of CTIA (stating that the Commission should adopt flexible national numbering administrative guidelines); Comments of NEXTLINK at 12-13 (stating that broad rules should not include administrative or technical requirements that are better developed in industry fora); Comments of USTA at 16 (stating that the Commission should continue to rely on industry guidelines).

[8/] See Administration of the North American Numbering Plan, Third Report and Order, 12 FCC Rcd 23040, 23087 ¶ 95 (1997) ("NANPA Order") (providing that the NANPA should follow "Commission rules and regulations and the guidelines developed by the INC and other industry groups" for numbering administration, with the Commission addressing disputes initially or upon recommendation from the NANC); See also Telephone Number Portability, Second Report and Order, 12 FCC Rcd 12281, 12283 ¶ 3 (1997) ("LNPA Order").

[9/] See State Outline at 1.

[10/] See NANPA Order, at 23087 ¶ 95.

users, and regulators throughout the countries served by the NANP. The NANC membership, working together to achieve consensus on issues for which time is of the essence, has expedited what would undoubtedly be a much longer process if the Commission were to rely on traditional rulemaking exclusively.[11/]

Uniform Definitions. The NPRM observed that a uniform set of definitions is essential to effective communication among carriers, the North American Numbering Plan Administrator (the "NANPA"), and regulatory entities.[12/] Virtually all commenters, including all the state commissions that commented on this matter, agree.[13/] Similarly, a broad cross-section of commenters, including several state commissions, concur that incorporating the definitions into the Industry Numbering Committee ("INC") Central Office Code ("CO Code") and Pooling Administration Guidelines would facilitate the process of updating the definitions as circumstances change.[14/]

Only a handful of commenters assert that the definitions themselves should be incorporated into the Commission's rules.[15/] These commenters do not, however, offer any

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[11/] See id.

[12/] NRO NPRM at ¶39.

[13/] See Comments of AirTouch at 14; Comments of ALTS at 5; Comments of Ameritech at 12; Comments of AT&T at 11; Comments of Bell Atlantic at 4; Comments of BellSouth at Appendix A; Comments of Cincinnati Bell at 2-3; Comments of GTE at 10; Comments of MCI WorldCom at 34; Comments of MediaOne at 9; Comments of MPUC at 4; Comments of NANPA at 2; Comments of NCUC at 4; Comments of NEXTLINK at 13; Comments of NJBPU at 1; Comments of NYDPS at 6 n.1; Comments of PrimeCo at 12; Comments of PUCO at 4; Comments of SBA at 4; Comments of SBC at 31-32; Comments of VoiceStream at 10; Comments of WinStar at 47; Comments of WPSC at 4.

[14/] See, e.g., Comments of ALTS at 5; Comments of Ameritech at 12; Comments of GTE at 10; Comments of MediaOne at 5; Comments of the NANPA at 3; Comments of NJBU at 1; Comments of NYDPS at 6 n.1; Comments of PrimeCo at 12; Comments of SBC at 32.

[15/] See Comments of MPUC at 4-5; Comments of NCUC at 4; Comments of PUCO at 4.

persuasive rationale for their proposed approach. Moreover, any concerns that they could potentially raise regarding enforceability could be adequately addressed by a generic rule that requires compliance with INC guidelines.

Although most commenters generally support the INC definitions,[16/] there is considerable disagreement about the treatment of reserved numbers. To address the Commission's concern about potential abuse of the category,[17/] commenters suggest a panoply of methods to limit carriers' ability to reserve numbers. While a significant number of commenters suggest placing a time limit on carriers' ability to classify numbers as reserved,[18/] numerous other proposals were offered, including requiring legally enforceable agreements before numbers could be reserved,[19/] assessing fees,[20/] and not permitting reservations for vanity numbers.[21/] The lack of agreement about how to limit reserved numbers demonstrates the practicality of AT&T's proposal to treat

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[16/] See, e.g., Comments of AirTouch at 14; Comments of ALTS at 5; Comments of Ameritech at 12; Comments of AT&T at 12; Comments of Bell Atlantic at 4; Comments of BellSouth at Attachment A; Comments of NEXTLINK at 13; Comments of SBC at 32.

[17/] NRO NPRM at ¶ 48.

[18/] See, e.g., Comments of Bell Atlantic at 6 (supporting the reservation intervals recommended by the NRO-WG); Comments of CAPUC at 45 (supporting a 45-day limit); Comments of MCI WorldCom at 37 (proposing a time limit of twelve months of longer); Comments of NJBPU at 2 (supporting a 60-day time limit); Comments of NYDPS at 4 (supporting a 45-day time limit); Comments of PrimeCo at 13 (supporting a time limit but arguing that 45 days is too short); Comments of PUCO at 6 (supporting a 90-day time limit).

[19/] See Comments of NJBPU at 2.

[20/] See Comments of MCI WorldCom at 37-38; Comments of MNDPS at 4. Contra Comments of NYDPS at 4 (fees for reserved numbers may impede new entrants).

[21/] See State Outline at 2-3.

all reserved numbers as available for assignment.[22/] AT&T's approach is simpler, less regulatory, and avoids the need for complicated rules and burdensome tracking mechanisms.[23/]

Uniform National Reporting Requirements. As AT&T explained, the need for national uniformity is also crucial with respect to utilization reporting requirements.[24/] This view was endorsed by nearly every party to this proceeding. In addition, the NANC's recommendation to replace current Central Office Code Utilization Survey ("COCUS") data with the hybrid model of utilization reporting received virtually unanimous support from service providers and state commissions alike.[25/] The majority of commenters, including the state commissions that commented on the issue, also agree that the NANPA is the appropriate entity to collect and analyze utilization data.[26/]

[22/] See Comments of AT&T at 13.

[23/] For instance, if there is a time limit on reserving numbers, carriers would be forced to track the date on which the number was reserved and, upon expiration of the time limit, re-enter the records to change the categorization.

[24/] See Comments of AT&T at 18-19.

[25/] See Comments of ALTS at 13; Comments of AirTouch at 18; Comments of Ameritech at 22; Comments of AT&T at 19; Comments of BellSouth at 15; Comments of FPSC at 12; Comments of NCUC at 7; Comments of Nextel at 22; Comments of NEXTLINK at 18; Comments of PCIA at 32; Comments of SBC at 51; Comments of USTA at 5. See also COPUC at 5 (supporting hybrid model audit process; GTE at 23 (supporting hybrid model reporting structure but disagreeing with COCUS Report regarding reporting responsibilities); Comments of PrimeCo at 16 (supporting hybrid model in conjunction with semi-annual reporting).

[26/] See Comments of AirTouch at 18; Comments of AT&T at 19; Comments of Bell Atlantic at 10; Comments of CAPUC at 15; Comments of Choice One and GST at 6; Comments of Cincinnati Bell at 8; Comments of Connect at 6; Comments of CTIA at 14; Comments of GTE at 21; Comments of Level 3 at 5-6 (stating that carriers should not be required to submit different or more frequent reports to state commissions); Comments of MCI WorldCom at 41; Comments of MediaOne at 17; Comments of MPUC at 11; Comments of NCUC at 6; Comments of Nextel at 21; Comments of NEXTLINK at 18; Comments of PAPUC at 12; Comments of PCIA at 31; Comments of PrimeCo at 15; Comments of RCN at 5; Comments of SBC at 56; Comments of Sprint at 15; Comments of Time Warner at 21.

The administrative burdens that would result from multiple and varied reporting regimes cannot be underestimated. The Commission should encourage state commissions to rely on COCUS data collected by the NANPA rather than impose their own reporting regimes. State commissions should have access to carrier-specific data collected via the COCUS process, so long as they can ensure confidentiality for all carriers, including CMRS carriers who may not traditionally be subject to state jurisdiction.[27/] Before releasing carrier-specific data to a state commission, the NANPA should inform a carrier that it has been requested to do so.[28/] Such notice would permit carriers to protect their interest in maintaining the confidentiality of sensitive information by requesting that state commissions withhold certain data from disclosure under applicable freedom of information laws.

Centralized Code Allocation. AT&T joins the vast majority of commenters that support the continuation of centralized code allocation through the NANPA; however, several state commissions have indicated that they may like a role in the code allocation process.[29/] Allocating codes is at the heart of number administration. Delegating that authority to state commissions would be antithetical to the mandate of Section 251, which gives the Commission plenary

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[27/] Some parties appear to misconstrue concerns expressed by AT&T and other carriers regarding state commissions' handling of confidential data. AT&T is not concerned that state commissions would misuse confidential data, but rather that state freedom of information laws may limit their ability to maintain confidentiality. Cf. Comments of PUCO at 13 (stating that state commissions will handle confidential information properly); Comments of PAPUC at 12-13 (explaining that state commissions have no incentive to disclose carrier-specific data).

[28/] AT&T recognizes that many state commissions have authority under state law to compel carriers subject to their jurisdiction to provide carrier-specific data. Because aggregate data should be sufficient for most purposes, AT&T does not believe that state commissions should routinely obtain carrier-specific data.

[29/] See State Outline at 3 ("[S]tates may want to have the final authority as to whether the codes should be awarded or not.").

authority over numbering administration.[30/] Granting state commissions this authority would complicate and slow the number assignment process that is already encumbered by a 66-day lag between a code request and the LERG effective date. Anecdotal evidence that a few companies not authorized to provide service within a state have been allocated codes[31/] is insufficient to warrant such a radical departure from the Commission's longstanding policy.[32/] Indeed, when the PAPUC brought this concern to the NANC, the NANC remedied the situation by ordering the NANPA to verify that carriers are certificated before allocating codes.[33/] Rather than providing a basis for eliminating national procedures, this experience demonstrates that prompt resolution of allocation issues can be obtained through use of the existing channels and procedures.

Uniform National Audit Procedures. The use of uniform utilization reporting requirements dovetails with the need for uniform national audit procedures. AT&T agrees with the Commission that audits are the best way to verify the validity and accuracy of utilization data

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[30/] 47 U.S.C. §251(e). The Commission has consistently and properly retained this authority while making limited delegations of authority to state commissions. See, e.g., Pennsylvania Order at 9025 ¶ 23; Second Local Competition Order at 19512 ¶ 271.

[31/] See Comments of MPUC at 5-6; Comments of PAPUC at 5-6.

[32/] It is well-settled that in order to depart from its policies regarding number administration, the Commission must "supply a reasoned analysis for the change beyond that which may be required when" it adopted that course in the first instance. Motor Vehicle Mfrs. Assn. v. State Farm Mut. Auto Ins. Co., 463 U.S. 29, 43 (1983). State Farm's holding is applicable not only to a decision to rescind an order, but whenever an agency "departs significantly from its own precedent" or "chang[es] its course." Citizens Awareness Network v. United States Nuclear Regulatory Commission, 59 F. 3d 284, 290 (1st Cir. 1995) (citing State Farm, 463 U.S. at 42); accord, e.g., Davila-Bardales v. INS, 27 F.3d 1, 5 (1st Cir. 1994); Central States Motor Freight Bureau v. ICC, 924 F.2d 1099, 1110 (D.C. Cir. 1991). Similarly, the Supreme Court has found that "[a] settled course of behavior embodies the agency's informed judgment that, by pursuing that course, it will carry out the policies committed to it by Congress. There is, then, at least a presumption that those policies will be carried out best if the settled rule is adhered to." Atchison, T. & S.F.R. Co. v. Wichita Bd. of Trade, 412 U.S. 800, 807-08 (1973).

[33/] See Comments of PAPUC at 6.

submitted by carriers and to deter violations of the guidelines.[34/] It makes sense, however, to weigh the costs and benefits of certain types of auditing regimes before undertaking them. For example, regularly-scheduled audits for all carriers may not be viable on a national scale. To illustrate, if the Commission attempts to audit over a three-year period the more than 3000 service providers that use NANP numbering resources, it would have to conduct almost five audits per day. If the audits are sufficiently in-depth to provide the necessary information, the cost of such a program could be overwhelming, and clearly out of line with its potential benefits. The same is true of the suggestion by some commenters that all service providers be required to undergo one-time or initial audits.[35/] In lieu of scheduled audits, numerous commenters from every segment of the industry join AT&T in its support of "for cause" audits, which would be triggered when there is reason to believe that a carrier is not compliant with reporting or other requirements.[36/]

State commission participation in the audit process should be permitted so long as certain requirements are met to ensure the uniformity of national audits. First, as with utilization reports, state commissions seeking to participate in the audit process must have legally enforceable confidentiality agreements in place, which cannot be undermined by state freedom of information statutes. Second, the participation of state commissions should be governed by

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[34/] NRO NPRM at ¶ 83.

[35/] See Comments of AirTouch at 21 (proposing an initial audit of all carriers' Months-to-Exhaust Worksheets to develop a baseline for comparison); Comments of MCI WorldCom at 44 (proposing a one-time audit for all code holders); Comments of WinStar at 65 (proposing an initial audit for all code holders one year after they initiate service).

[36/] See Comments of ALTS at 15; Comments of Ameritech at 24; Comments of Connect and GST at 8; Comments of Level 3 at 7; Comments of Nextel at 22; Comments of NEXTLINK at 20; Comments of OPATSCO at 4; Comments of PCIA at 33; Comments of RCN at 7; Comments of Time Warner at 21-22.

uniform national guidelines promulgated either by the NANC or the Commission. As numerous commenters recognize, it would be unduly burdensome to subject regional and national carriers to disparate and possibly conflicting audit requirements.[37/] Finally, the NANPA or a neutral third party auditor appointed by the Commission must direct all audits, including those in which state commissions participate. Subjecting carriers to multiple, simultaneous audits would increase carrier costs to an untenable level and would waste state resources through unnecessary duplication of efforts. Requiring all audits to be conducted as outlined above strikes the appropriate balance between state commissions' desire to participate in the audit process and the need for a reasonable, uniform audit process.

Uniform National Enforcement Procedures. Finally, uniform national guidelines are crucial for effective and efficient enforcement of numbering policies.[38/] The NANPA Order established a "streamlined" dispute resolution mechanism by which issues are brought first to the NANPA, then to the NANC, and then to the Commission's Common Carrier Bureau.[39/] Although some state commissions complain that the NANPA is not enforcing industry

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[37/] See Comments of ALTS at 14 (supporting uniform auditing process to ensure that rules and guidelines are uniformly applied); Comments of Connect and GST at 9 (arguing that a single entity should have audit responsibility); Comments of Level 3 at 8 (same); Comments of MCI WorldCom at 45 ("[I]t would be unduly burdensome for national carriers for the Commission to delegate audit authority to the states."); Comments of NEXTLINK at 19; Comments of SBC at 59 (arguing that varying audit standards, processes, and neutrality would undermine the FCC's effort to create a uniform audit process); Comments of RCN at 7.

[38/] See Comments of AirTouch at 23; Comments of ALTS at 16; Comments of Choice One and GST at 3 (arguing that delegating enforcement authority to state commissions would destroy uniformity); Comments of Connect at 10; Comments of Level 3 at 9; Comments of MediaOne at 20; Comments of Nextel at 23; Comments of PCIA at 34 (urging the FCC not to delegate enforcement authority to the states); Comments of RCN at 8; Comments of Time Warner at 4-5.

[39/] See 47 C.F.R. § 52.11(c); NANPA Order at 23088 ¶¶ 96-97.

guidelines, or that the guidelines are otherwise inadequate,[40/] no party has yet attempted to invoke the established procedures. If parties believe that certain carriers are violating industry guidelines, the Commission has established an expedited process for resolving such claims. The Commission's process gives appropriate authority to the NANPA and the NANC, and provides that the Commission will intervene if necessary.[41/] This system is designed to handle disputes in an expeditious and rational manner.[42/] Arguments to the contrary ring utterly hollow when the parties advancing them have never tried to utilize existing enforcement mechanisms.

II. THE COMMISSION SHOULD NOT ADOPT VERIFICATION AND RECLAMATION PROCEDURES THAT WILL INHIBIT CARRIERS' ABILITY TO PROVIDE SERVICE

Congress' paramount goal in enacting the 1996 Telecommunications Act was to open local telecommunications markets to competition.[43/] Achievement of this goal would be substantially hindered – if not foreclosed – by the introduction of regulatory policies that will

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[40/] See, e.g., Comments of MPUC at 13 (arguing that the "industry has shown itself to be incapable" of policing itself on numbering issues); Comments of NARUC at 2 (urging the Commission to abandon voluntary CO Code Guidelines); Comments of PAPUC at 4 (arguing that it is the laxness of industry guidelines which prevents the NANPA from administering numbers more efficiently).

[41/] The NANPA Order expressly recognizes that the NANPA's role is limited, and that it "should apply its expertise to interpreting and applying existing decisional principles, but that it should not make policy or create the equivalent of new guidelines." NANPA Order at 23088 ¶ 96. The order also explicitly contemplates that disputes requiring more than a simple application of the NANPA's "binder of decisional principles" should be referred to the NANC. Id.

[42/] Accord Comments of PCIA at 34 ("Current FCC rules provide the FCC with ample enforcement tools to deal with any situation that might arise. . . .").

[43/] When the 1996 Act was passed, Congress emphasized the importance of promoting competition in the local exchange markets. See H.R. Rep. No. 104-204, at 48 (1995) (main component of the bill "promotes competition in the market for local telephone service"); S. Rep. No. 104-23, at 5 (1995) (legislation "reforms the regulatory process to allow competition for local telephone services by cable, wireless, long distance" and other entities).

inhibit the ability of competing carriers to obtain and retain the numbers they require to provide service. To ensure that competing carriers are not disadvantaged vis-a-vis incumbent LECs, the Commission should reject both verification requirements that fail to reflect business realities and reclamation rules that would force CLECs to return numbers prematurely.

A. Verification Requirements Must Reflect the Practical Realities of the Marketplace and Must Ensure that Carriers have Sufficient Codes to Provide Service

1. Verification Requirements for Initial Codes Must Not Be Unnecessarily Burdensome

AT&T agrees with the NPRM's proposal that carriers should be required to demonstrate need in order to obtain initial codes. AT&T is concerned, however, that some of the verification procedures proposed would delay market entry, impose costly and unnecessary administrative burdens on both the NANPA and carriers, or put the Commission or the NANPA in the position of assessing the reasonableness of a company's business plan.[44/] Instead of the unnecessarily burdensome requirements suggested by various state commissions and other commenters,[45/] the Commission should require a carrier to certify, through existing administrative processes, that it (1) it has the requisite authority to operate in the area for which it is seeking codes; (2) will be

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[44/] See, e.g., State Outline at 3 (proposing that carrier give state commissions a copy of their business plan to demonstrate need for initial code); Comment of WPSC at 5 (arguing that states need authority to provide input on specific NXX requests).

[45/] See, e.g., State Outline at 3 (stating that carriers must show: an interconnection agreement state certification; facilities within the rate center within six months; and a description of the carriers' business plan). See also Comments of MPUC at 5-6 (stating that carriers must show interconnection agreement and facilities within six months); Comments of NCTA at 3 (stating that carriers should demonstrate a "state of readiness to operate"); Comments of SBC at 44 (stating that carries should show intent to place codes "in service" by providing access to the public switched telephone network); Comments of VASCC at 4 (stating that carriers must show interconnetion agreement and facilities within six months).

interconnected, and have sufficient operable facilities to serve customers within three months of the LERG effective date; and (3) has a legitimate business need for the code(s), as evidenced by a need to expand its footprint, the need to meet customer demand, or the need to meet a competitive threat. The Commission should also require that carriers maintain in their records in auditable form the documentation required to support these claims, e.g., licenses or certification to operate within an area, interconnection agreements and facilities orders, actual customer orders, or business plans documenting the intent to expand into a given area.[46/]

AT&T believes that its proposed initial code verification procedure requires carriers to establish a level of "readiness to provide service" comparable to the procedures advocated by state commissions and other commenters.[47/] AT&T's proposal, however, would be considerably easier to administer, and takes into account differences among competing carriers as well as the practical considerations of providing service.

In this regard, AT&T sees no legitimate reason to adopt the proposal of various state commissions and many of the ILECs that carriers submit proof of state authorization to provide service prior to obtaining an initial code.[48/] In some cases, state certification is not required for carriers to operate in a given area (e.g., wireless carriers).[49/] Under AT&T's proposal, carriers must certify that they have the requisite authority to operate in the area. Thus, a wireless carrier

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[46/] AT&T's proposal properly avoids putting the NANPA or regulators in the position of evaluating the reasonableness of carriers' business plans. See infra at 21.

[47/] See supra note 45.

[48/] See State Outline at 3. See also Comments of Ameritech at 15; Comments of Bell Atlantic at 7-8; Comments of Cincinnati Bell at 6; Comments of FLPSC at 17; Comments of GTE at 18; Comments of MPUC at 5-6; Comments of NCUC at 5; Comments of NJBPU at 2; Comments of NYDPS at 6; Comments of PAPUC at 6-8; Comments of SBC at 43-43.

[49/] See Comments of Nextel at 10.

could certify that it has a license granted by the Commission, and CLECs could attest to existence of any necessary state approvals. This process would avoid the need to make and review burdensome paper filings, but would permit enforcement activities and sanctions for false certifications.

Similarly, rather than require submission of interconnection agreements and proof that facilities will be constructed within a given time frame,[50/] AT&T's proposal simply requires that facilities be in place within three months of the LERG effective date. In some circumstances, a carrier can obtain facilities before an interconnection agreement is finalized, and can utilize an ILEC's tariffed services while negotiations over certain aspects of the interconnection arrangements are on-going. There is no basis to deny carriers numbering resources when they are willing and able to offer services in the absence of a final interconnection agreement.

Finally, permitting carriers to certify, with supporting explanation, that they have a legitimate business need for the requested codes instead of providing business plans to the Commission or the NANPA makes abundant sense. Carriers should not be required to turn over such competitively-sensitive documents absent an overwhelming need, and the government should not be in the position of judging the validity of any carrier's business objectives.

Adoption of AT&T's proposals with regard to initial code requests would reduce the burden on the NANPA and carriers, eliminate the amount of paper that has to be filed, retained, and tracked, and provide as much consistency as possible with the current code allocation processes. No party advocating the submission of state authorizations, interconnection agreements, or business plans has set forth a sound justification for these onerous documentation

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[50/] See, e.g., Comments of MPUC at 5-6; VASCC at 4.

requirements. Unless and until it is demonstrated that the costs would not outweigh the burdens of such proposals, the Commission should proceed with AT&T's commonsense and effective approach to initial code requests.

2. Any Utilization Threshold Adopted Should Ensure that Carriers Have Adequate Numbers Needed To Provide Service

For growth codes, AT&T previously proposed that carriers demonstrate need using the current Months-to-Exhaust Worksheet. Some parties that favor the establishment of utilization rates claim that months-to-exhaust calculations are just projections and not sufficiently reliable.[51/] Competing and incumbent carriers both agree, however, that the months-to-exhaust method provides usage information that allows for verification and cross-checking to determine if a carrier's forecasted need is out of line with recent demand by its customers.[52/]

Competing and incumbent carriers also agree that a requirement for utilization thresholds could interfere with a carrier's ability to meet customers' requests for new services because such thresholds bear little, if any, relationship to the date at which a carrier should reasonably be expected to need additional numbers.[53/] Thus, relying only on utilization rates could deny resources to some carriers that need numbers to meet customer demand, while permitting other

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[51/] See Comments of MNDPS at 4; Comments of NYDPS at 6; Comments of NCUC at 5; Comments of PAPUC at 9.

[52/] See Comments of ALTS at 10 (recognizing that months-to-exhaust is tied to actual carrier business forecasts); Comments of Ameritech at 16; Comments of Bell Atlantic at 8; Comments of Cincinnati Bell at 19; Comments of MediaOne at 13; Comments of PCIA at 30.

[53/] See Comments of ALTS at 9; Comments of Bell Atlantic at 9; Comments of Cincinnati Bell at 6-7; Comments of GTE at 18-19 ("Fill rates are historical in nature and do not necessarily reflect a carrier's actual current need. . . ."); Comments of Level 3 at 4 (arguing that establishing utilization thresholds will disproportionately impact new entrants); Comments of MCI WorldCom at 26; Comments of MediaOne at 14; Comments of RCN at 3; see also Comments of PrimeCo at 14 (arguing that fill rates are generally counterproductive and should only be used in jeopardy NPAs).

carriers, particularly ILECs that have a large base of embedded customers and numbering resources, to obtain numbers they do not actually need.[54/]

If the Commission nonetheless decides to adopt a utilization threshold, it should implement a method that both ensures the availability of numbers to carriers that need them, despite failing to meet utilization requirements and denies resources to carriers that do not need them, despite high utilization rates. To this end, AT&T proposes that the Commission adopt a "hybrid" approach that applies a utilization threshold in conjunction with a months-to-exhaust calculation. In crafting this approach, AT&T incorporated the best aspects of several proposals submitted by other parties – including SBC,[55/] CTIA,[56/] and Sprint,[57/] as well as the procedures in effect in Illinois[58/] and Long Island, New York,[59/] and, where appropriate, attempted to improve upon them.

Under AT&T's "hybrid" approach, a carrier would be permitted to obtain growth numbering resources for a given rate center only when:

[54/] Absent a shortage situation, carriers have no economic incentive to "hoard" numbers, because numbers have no intrinsic value and cannot be bought or sold. Since the goal of this proceeding is to restructure the nation's numbering system in order to avoid jeopardy situations and the need for repeated NPA relief, in the future, carriers no longer should have any incentives to obtain numbers they do not need in order to fulfill their business plans.

[55/] See Comments of SBC at 26-29.

[56/] See Comments of CTIA at 10-11.

[57/] See Comments of Sprint at 12-13.

[58/] See Citizen Utility Board, Petition to Implement a Form of Number Conservation Known as Number Pooling within the 312, 773, 847, 630, and 708 Area Codes; Illinois Bell Telephone Company, Petition for Approval of an NPA Relief Plan for the 847 NPA, Nos. 97-0192, 97-0211, Order of the Illinois Commerce Commission (rel. May 6, 1998) ("Illinois Plan").

[59/] Reconsideration of the 516 NPA Rationing Plan, May 10, 1999, Attachment 2, Industry Consensus for the Distribution of the Codes Remaining in NPA 516 ("516 NPA Plan").

(1) at least 75 percent of the carrier's assigned numbers in a particular rate center are "unavailable for assignment"[60] and the carrier can demonstrate that it meets the months-to-exhaust criteria specified in the CO Code Administration Guidelines (i.e., within 12 months in a non-jeopardy situation and 6 months in a jeopardy situation);[61] or

(2) the carrier has not reached the minimum utilization rate but can demonstrate a bona fide need for numbering resources. A carrier shall be deemed to have demonstrated a bona fide need if its Months-to-Exhaust Worksheet projects that its available numbers in the rate center will exhaust within 90 days or less,[62] and (a) its average projected monthly activation rate is within 15 percent of its historical activation rate; or (b) it provides other credible evidence to the NANPA to support a higher projected activation rate.[63]

Carriers also may request numbering resources in a given rate center for "special services" that require separate number blocks such as calling party pays, FEMA Priority codes, and prepaid services, among others. Utilization of numbering resources allocated for special services would be calculated and reported separately.

By requiring that a carrier demonstrate need within the specified INC time frames, AT&T's proposal prevents carriers who meet the percentage utilization from obtaining additional

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[60] This criteria is based on the requirement in effect in Illinois, which prohibits carriers from assigning numbers from NXX growth codes until at least 75 percent of the numbers in that carrier's existing codes in a rate center have been utilized. See Illinois Plan at 24. However, AT&T's proposal improves on the Illinois model by tying the percent utilization requirement to the ability to obtain growth codes – not just to the use of the codes.

[61] This requirement is consistent with SBC's proposal, and ensures that carriers are not assigned numbers even if they meet the utilization rate unless they will have a need for those numbers within the time periods prescribed in the INC guidelines.

[62] Illinois provides an exception to the 75 percent fill rate requirement when the applicant certifies to the number administrator that it will have a bona fide need to use numbers from a new NXX code for growth within 90 days, even though its existing NXX codes are not yet 75 percent utilized. See Illinois Plan at 24.

[63] The requirements in 2(a) and (b) represent AT&T's attempt to flesh out the Illinois exception, and to create a test that is more objective , and thus easier for the NANPA to administer. The 15 percent requirement in 2(a) is modeled after the procedures in effect in the 516 NPA. See 516 NPA Plan. See also Comments of Sprint at 12-13.

codes unless they can demonstrate actual need. Conversely, AT&T's proposal ensures that carriers truly in need of numbers are not denied them, even if they have not reached the utilization threshold. The Illinois Commerce Commission approved a similar exception in order to ensure that carriers have adequate access to numbering resources:

> The Commission, however, is concerned about the ninety day lag between the time that a new NXX code is requested and the time that it can be activated. It is possible that there will be circumstances in which a carrier needs to request a new NXX code to meet expected growth in customer demand within a ninety day period, even though one or more of the carrier's existing NXX codes has a utilization rate of less than 75% at the time the carrier makes its request to the Code Administrator.[64/]

All commenters that address the issue, including the state commissions, recognize the need for a uniform national utilization threshold to avoid undue administrative burdens that would result from varying state-imposed utilization levels.[65/] AT&T's proposal provides the necessary uniformity with a proposed a utilization rate (75 percent) that seems generally in line with those proposed by the commenters.[66/] Moreover, AT&T's proposal calculates utilization levels on a rate center basis – the method preferred by the vast majority of commenters,

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[64/] See Illinois Plan at 27.

[65/] See, e.g., Comments of CAPUC at 14; Comments of MNDPS at 6 (recommending "a uniform nationwide utilization threshold since assignments are made at a national level."); Comments of SBA at 5 (suggesting that utilization levels be uniform for all carriers); Comments of SBC at 24-25 (proposing a uniform utilization rate phased in over time); Comments of Time Warner at 17 (suggesting uniform utilization rates with specific exceptions for jeopardy areas).

[66/] See Comments of CTIA at 10-11 (suggesting that utilization rates start at 60 percent and increase to 70 percent); MNDPS at 6 (stating that a threshold of 75 percent or higher is reasonable); Comments of Nextel at 10 (suggesting that utilization rates start at 60 percent and increase to 70 percent); Comments of NYDPS at 6 (stating that fill rate should be 65-85 percent). Some commenters have proposed a ramp up of the utilization rate, and others have proposed that certain types of codes (e.g., newly assigned codes) be excluded from the utilization figure. AT&T's proposal obviates the need for these requirements because it gives carriers a way to request codes before they reach the utilization rate assuming they can demonstrate need.

including state commissions.[67] Finally, AT&T's proposal would create a test that is as objective as possible, and does not require the NANPA or regulators to evaluate the reasonableness of carriers' business plans. Any proposals that would require such an evaluation are extremely problematic and should be rejected.[68] The Commission, state commissions, and the NANPA should not attempt to judge how rapidly or in what fashion telecommunications markets may grow or shift.[69]

B. Shortening the Time Frame for Code Reclamation Would Leave Carriers Without Sufficient Codes To Provide Service

The NPRM's proposal to reduce the time to initiate code reclamation from 6 months to 60 days is unreasonable given the realities of providing telecommunications services. A number of state commissions argue that such a measure would improve optimization efforts, but they provide no support for their claims.[70] Nor do they acknowledge the severe difficulties that shortening the reclamation time frame would cause carriers. As AT&T has explained, a new carrier must have ample time to test and trouble-shoot its network and interconnections before

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[67] See Comments of ALTS at 12; Comments of Cox at 25-26; Comments of MediaOne at 14; Comments of MNDPS at 6; Comments of MPUC at 8; Comments of NCUC at 5; Comments of NYDPS at 7 ("If carriers were required to demonstrate utilization over an entire NPA this could prevent new entrants from serving customer demand in certain rate centers."); Comments of Qwest at 9; Comments of Time Warner at 18; Comments of WPSC at 5.

[68] See, e.g., State Outline at 3 (proposing that carrier give state commissions a copy of their business plan to demonstrate need for initial code); Comment of WPSC at 5 (arguing that states need authority to provide input on specific NXX requests).

[69] Investors and entrepreneurs do not put capital at risk unless they have a good faith belief that they can earn a return on their investments. Neither regulators nor the NANPA should second-guess such decisions.

[70] See, e.g., Comments of MPUC at 14 (citing with approval proposition in the State Outline that the reclamation process be complete within 60 days); Comments of CAPUC at 18 (same); Comments of SBA at 7 (arguing that codes should be reclaimed within 30 days of the activation deadline).

commencing service.[71/] If a CLEC is initiating service in a large metropolitan area, it is highly unlikely that this testing could be accomplished within 60 days. A 60-day interval would also leave many carriers, especially wireless providers, with an insufficient supply of numbers to serve customers during peak demand periods (e.g., during holiday gift-buying seasons).[72/] To avoid these situations, carriers generally carry a six-to-twelve-month inventory of number resources.

Furthermore, refusing to permit extension of the code activation date would significantly impede competitive entry.[73/] Unlike ILECs, which by virtue of their historic monopoly already possess NXX codes in every rate center in their territories, CLECs must establish a service "footprint" by obtaining a new code for each rate center they wish to serve. Although a CLEC may have a sound business plan that contemplates providing service throughout all the rate centers for which it obtains numbers, it might not obtain customers in some of those rate centers within the six-month period. Alternatively, it may have customers in all rate centers, but in some rate centers its customer base likely will (at least initially) consist of "in-ports" from former ILEC customers, who will keep their existing telephone numbers.

Forcing a CLEC to return a code in such situations would make it impossible for that carrier to meet demand for new telephone numbers in the affected rate center. For these reasons, the NANPA should determine before reclamation procedures begin whether a carrier is actually providing local exchange service in a particular area, even if it is providing service solely

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[71/] See Comments of AT&T at 28.

[72/] The time from code request to LERG effective date is at least 66 days, and carriers need an adequate number inventory during these periods.

[73/] See Comments of AT&T at 28.

through ported numbers or in rate centers located in the same vicinity as the CLEC's target market. Absent this determination by the NANPA, CLECs will be left without sufficient resources to establish a service footprint, thus thwarting Congress' goal of opening local markets to competition.

C. Carriers Should Bear Their Own Carrier-Specific Costs of Number Optimization Measures

The clear majority of commenters, including AT&T, agree that the NANPA fund formula should be used to allocate the industry-wide costs incurred in implementing the proposed administrative measures to all carriers on a competitively-neutral basis.[74/] AT&T fully agrees with the commenters who argue that carrier-specific costs incurred as a result of number optimization measures (including thousands block pooling) should not be passed on to end users in the form of surcharges.[75/] Surcharges are not necessary and each carrier should bear its own costs to implement pooling.[76/] In all events, interexchange carriers ("IXCs") should not have to "pay twice" for number conservation measures by being forced to pay a substantial portion of

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[74/] See Comments of ALTS at 20; Comments of Ameritech at 28-29; Comments of AT&T at 32; Comments of Bell Atlantic at 15; Comments of Choice Once and GST at 7; Comments of Connect at 13; Comments of NCUC at 10; Comments of NJBPU at 5; Comments of RCN at 10; Comments of SBC at 68; Comments of WinStar at 71.

[75/] See Comments of NYDPS at 11; Comments of PUCO at 34-35.

[76/] See Comments of AT&T at 55.

ILECs' costs in the form of higher access charges.[77] If the Commission does adopt a cost recovery mechanism for carrier-specific costs, such recovery should be governed by the principles established in, and limited to the types of costs recoverable under, the Commission's LNP cost recovery proceedings.

III. RATE CENTER CONSOLIDATION AND THOUSANDS BLOCK POOLING SHOULD BE IMPLEMENTED EXPEDITIOUSLY

AT&T urges the Commission to focus on number optimization methods that have the greatest potential to provide significant number optimization benefits on a cost-effective basis. As the commenters recognize nearly unanimously, thousands block number pooling promises to provide the most substantial relief in the shortest period of time. To enhance the benefits of pooling, state commissions should be encouraged to consider rate center consolidation wherever feasible.

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[77] See Comments of AT&T at 57; Comments of Cincinnati Bell at 12-13 (noting that recovering costs through access charges contradicts the FCC's attempts to remove implicit subsidies from access charges); Comments of MCI WorldCom at 55. The United States Court of Appeals for the Fifth Circuit recently concluded that the 1996 Telecommunications Act disfavors implicit subsidies for ILEC costs. See Texas Office of Pubic Utility Counsel, et al. v. FCC, 1999 WL 556461, *19 (5th Cir. 1999) (holding ILECs' "flow through" of universal service contributions to IXCs via higher interstate access charges violates the statutory prohibition on implicit subsidies in Section 254). Cf. Telephone Number Portability, Third Report and Order, 13 FCC Rcd 11701, 11773 ¶ 135 (1998) (refusing to allow LECs to recover LNP costs in interstate access charges).

A. The Commission Must Establish National Pooling Guidelines as Expeditiously as Possible and Should Not Be Distracted by Nonessential Administrative Concerns or Undeveloped Optimization Efforts

1. Pooling Should Be Implemented on an NPA Basis Pursuant to an Aggressive Schedule that does not Unnecessarily Risk Network Integrity

In near unanimity, the commenters agree that thousands block number pooling should be implemented as expeditiously as possible.[78/] To that end, the Commission should select a roll-out plan that establishes pooling quickly and rationally, without jeopardizing network integrity.

As AT&T demonstrated in its comments, pooling should be rolled out on an NPA-by-NPA basis and should not be based on, or limited to, metropolitan statistical areas ("MSAs").[79/] NPA boundaries do not correspond to those of MSAs, and MSAs may contain numerous NPAs, some of which are nearing exhaust and others in which there is little demand for numbers. The purpose of number pooling is to reduce the number of NXXs that are assigned and thereby slow the pace of NPA relief implementation. It would be most reasonable, and most effective, to implement pooling first where there is a high rate, historically or anticipated, of NXX demand, and the most efficient way to accomplish this would be to consider each NPA separately.

[78/] See, e.g., Comments of ALTS at 23-24; Comments of Bell Atlantic at 23; Comments of CAPUC at 26 (stating that thousands block pooling is the CAPUC's "highest priority"); Comments of Sprint at 16-17 (urging the Commission to adopt national pooling guidelines as expeditiously as possible); Comments of U S West at 16; Comments of WPSC at 7 (urging the Commission to enable thousands block pooling).

[79/] See Comments of AT&T at 42. Accord Comments of ALTS at 23; Comments of Ameritech at 37; Comments of Connect and GST at 16; Comments of CUB at 28; Comments of GTE at 43; Comments of MediaOne at 22; Comments of PAPUC at 15; Comments of PrimeCo at 7.

Moreover, as several state commissions note, limiting the measure to the top 100 MSAs would exclude many areas that would benefit from pooling.[80/]

The Commission should be the sole decision-maker with regard to the pooling implementation schedule. Commenters who argue that state commissions should control pooling implementation fail to understand that multiple, and in some cases simultaneous, schedules will incapacitate carriers' systems.[81/] Only the Commission can ensure that the roll-out schedule accommodates the industry's technical limitations.[82/] For example, carriers' ability to engage in pooling is currently limited by their Service Control Point ("SCP") capacity.[83/] A single state commission has already ordered a pooling plan that would use a significant portion of the SCP

[80/] Comments of CAPUC at 33 (noting that because NPA and MSA boundaries do not necessarily coincide, limiting pooling to MSAs could mean that the measure could not be implemented in NPAs that include areas inside and outside of MSAs); Comments of CTDPUC at 5 (explaining that limiting pooling to top 100 MSAs would hamper conservation efforts in states without large MSAs); Comments of MPUC at 19; Comments of NARUC at 2 (explaining that many areas outside of the top 100 MSAs have low fill rates); Comments of VASCC at 3 (same).

[81/] See, e.g., Comments of CTDPUC at 5; Comments of CUB at 28-29; Comments of FLPSC at 10; Comments of MPUC at 19; Comments of NARUC at 2; Comments of NCUC at 13; Comments of NJBPU at 6; Comments of NYDPS at 12.

[82/] See Comments of AT&T, NSD File No. L-98-136, at 5 filed June 14, 1999.

[83/] See, e.g., Investigation Into Issues Relating to the Exhaustion of Telephone Numbers in the Chicago Metropolitan Area, Order (Illinois Commerce Commission, 98-0497), released December 16, 1998, p. 25 (finding that expansion of the Illinois pooling trial was subject to "Service Control Point ('SCP') capacity issues that must be addressed before number pooling can [be] prudently implemented").

capacity available nationwide.[84/] By establishing a national pooling schedule, the Commission can avoid the numbering "gridlock" that could occur if carriers faced conflicting state commission orders directing them to use their available SCP capacity to implement pooling.

Several commenters express dissatisfaction with the 10 to 19 month roll-out schedule proposed by the NANC, but fail to provide a workable alternative or even to demonstrate that a more aggressive schedule is feasible.[85/] In its comments, AT&T proposed an implementation plan to achieve pooling roll-out in 100 NPAs over a 12-month period.[86/] This is an aggressive schedule that still allows for sufficient testing and modification. A shorter schedule that cuts corners on testing or that attempts to implement pooling over too wide an area initially would needlessly jeopardize the integrity of the public network. In order to introduce pooling in a

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[84/] An Illinois Commerce Commission hearing examiner has issued a draft decision proposing to expand the 847 trial so as to make thousands block pooling mandatory in four additional NPAs. Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 723 NPAs, Hearing Examiner's Proposed Interim Order (Illinois Commerce Commission 98-0847). AT&T has opposed this expansion on the grounds that it exceeds the scope of the waiver granted to Illinois. If thousands block pooling is ultimately implemented in an additional four NPAs in Illinois, it could considerably limit the number of interim pooling trials that would be possible in the rest of the country.

[85/] See, e.g., Comments of COPUC at 7 (stating that pooling should be implemented in every rate center by the end of 2002); Comments of FLPSC at 10; Comments of NYDPS at 12 (stating that the Commission should insist on a more aggressive schedule).

[86/] See Comments of AT&T at 44-45. AT&T recommends that first, a single NPA should be designated as the test market to ensure that the NPAC version 3.0-based systems and processes work properly. Next, AT&T recommends that pooling be implemented in one NPA per month in each of the current LLC territories. Finally, after the first six months of pooling, the roll-out pace should be doubled to 14 NPAs per month nationwide, without regard to the LLC territories. Under this proposal, one year after the test roll-out, between 99 and 113 NPAs would have pooling in place.

limited fashion more quickly, AT&T has proposed that states be granted interim authority to engage in limited pooling trials, subject to certain safeguards.[87/]

As it moves forward with pooling implementation, the Commission should expressly prohibit a U S West practice that has recently come to light that would make pooling impossible. U S West has instituted a policy that requires LNP-capable carriers[88/] to use a separate location routing number ("LRN") for every rate center from which they wish to receive ported numbers and to obtain each LRN from a unique NXX assigned to that carrier.[89/] Such a policy would effectively eviscerate pooling, because it requires each CLEC to obtain a full NXX (10,000 numbers) per rate center. The harm to number conservation engendered by this practice, which directly contradicts the INC-agreed LRN Assignment Practices,[90/] far outweighs any conceivable administrative justification U S West might have for its continuance, as is made clear by the fact that other ILECs that initially proposed similar requirements have since abandoned such policies. AT&T acknowledges that there are some network configurations with multiple tandem switches in a rate center for which a few – two or three – LRNs per LATA may make network routing more efficient. Such an accommodation, however, certainly does not burden pooling efforts in

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[87/] Comments of AT&T, NSD File No. L-98-136, at 4-9, filed June 14, 1999.

[88/] U S West's LRN requirement also could negate CMRS carriers' ability, once they become LNP-capable, to utilize numbers more efficiently. Although wireless providers do not need an NXX for every rate center in which they provide service, application of U S West's requirement would force them to order full codes in every area.

[89/] U S West has established this policy over AT&T's objections. See Letter from Charlotte Field, AT&T Corp., to Beth Halvorson, U S West Communications, Inc., dated August 19, 1999 and reply from Beth Halvorson to Charlotte Field dated August 26, 1999 attached hereto as Appendix B.

[90/] These Practices are available on the ATIS INC web site located at www.atis.org/atis/clc/inc/incwdocs.htm.

the same manner as U S West's mandate that carriers establish a distinct LRN in every rate center. To prevent carriers from undermining the pooling objectives set forth in the NPRM, the Commission should explicitly prohibit practices such as that established by U S West.

2. Non-LNP-capable Carriers Should Remain Exempt from Pooling Requirements

There is nearly unanimous support for exempting non-LNP-capable carriers from pooling requirements.[91/] As BellSouth states it is "not reasonable to expect non-LNP capable carriers to implement pooling" because the "benefit/cost ratio is marginal at best."[92/] AT&T has consistently explained that there is simply no reason either to delay the implementation of nationwide pooling until all carriers obtain LNP capability, or to try to force non-LNP capable carriers into a regime for which they lack the technical means.[93/] The Commission established a

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[91/] See Comments of AirTouch at 10-11; Comments of ALTS at 23-24 (supporting a presumption for pooling implementation by all LNP-capable carriers); Comments of Ameritech at 40; Comments of BellSouth at 22; Comments of CTIA at 28-30 ("[T]he Commission need not require CMRS carrier compliance with number pooling for these beneficial effects to be realized."); Comments of GTE at 48 (arguing that, at a minimum, wireless carriers could not be expected to implement thousands block pooling in less than a period of 18-24 months); Comments of MCI WorldCom at 57 (stating that CMRS should be required to pool once LNP-capable); Comments of Nextel at 17; Comments of NEXTLINK at 10; Comments of OmniPoint at 22-23; Comments of PCIA at 23-25 (arguing that there is no basis to require CMRS carriers to pool); Comments of PrimeCo at 7; Comments of SBA at 9-10 (stating that CMRS should be required to participate once they are LNP-capable); Comments of SBC at 75; Comments of USTA at 9; Comments of VoiceStream at 26.

[92/] Comments of BellSouth at 22. As BellSouth correctly notes, a CMRS pooling requirement would bring significant cost burdens without significant benefit because "wireless providers only have a presence in five to ten percent of rate centers, and can contribute numbers only in those rate centers." Id.

[93/] See Comments of AT&T at 46.

November 2002 deadline for wireless carriers to implement number portability,[94] correctly concluding that implementation of wireless LNP by the original deadline of March 2000 is not "practically feasible."[95] More specifically, the Commission found that wireless carriers would need additional time to obtain the appropriate software from manufacturers, and to conduct laboratory and field testing to "ensure the reliability, quality, and integrity of their service."[96] The commenters who assert that wireless carriers should be forced to accelerate the implementation of LNP[97] do not even purport to present evidence that warrants revisiting the Commission's conclusions.

3. The Commission Should Adopt Thousands Block Management Guidelines, Not Sequential Number Assignment

To avoid unnecessary contamination of thousands blocks during the pooling rollout, the Commission should adopt thousands block management requirements applicable to all carriers, including those that are not yet capable of pooling. Sound thousands block management does not, however, require that numbers be assigned sequentially either within a thousands block or by thousands blocks. All that is necessary is for open thousands blocks to be used efficiently prior to the opening of another block.

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[94] Cellular Telecommunications Industry Association's Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, Memorandum Opinion and Order, 64 Fed. Reg. 22,562 (1999) ("Forbearance Order").

[95] Forbearance Order at ¶ 29.

[96] Id. at ¶ 29.

[97] See Comments of COPUC at 6; Comments of the NCUC at 14.

The overwhelming majority of industry commenters oppose sequential numbering requirements.[98/] The state commissions that support sequential block numbering do so because they believe the measure will protect uncontaminated thousands blocks for pooling.[99/] AT&T shares in this goal, but maintains that strict sequential number assignment would impose significant administrative burdens without corresponding benefits that could not be obtained through less burdensome thousands block management practices.[100/] To strike a reasonable balance between the need to protect uncontaminated blocks for pooling with the need to accommodate the technical limitations of some carriers and consumers, AT&T proposes that the Commission require the following:[101/]

[98/] See, e.g., Comments of Ameritech at 46 (arguing that any requirement for assigning numbers in, or opening thousands blocks in, strict numerical order serves no valid purpose); Comments of AT&T at 51; Comments of Bell Atlantic at 31; Comments of BellSouth at 24; Comments of Level 3 at 14-15 (opposing sequential numbering requirements because they would limit carriers' ability to meet consumer demands); Comments of Sprint at 20; Comments of USTA at 10.

[99/] See Comments of CAPUC at 35; Comments of COPUC at 14; Comments of FLPSC at 17; Comments of MPUC at 25 (stating that every effort should be made to protect uncontaminated blocks during the transition to thousand block pooling); Comments of NCUC at 16; Comments of NHOCA at 2; Comments of NYDPS at 11-12 (supporting sequential number assignment as a way to maximize the availability of uncontaminated blocks for pooling).

[100/] As AT&T explained in its comments, sequential number assignment can be difficult for both carriers and consumers because (1) some equipment limitations that make the utilization of certain telephone number series unworkable for some customers; (2) some customers require large blocks of telephone numbers, generally from a particular 1000 or 100 number series; and (3) some carriers may have internal assignment management issues that make true consecutive assignments very difficult. See Comments of AT&T at 51.

[101/] AT&T uses as a basis for this proposal the concepts found in the INC Thousands Block (NXX-X) Pooling Administration Guidelines, (Jan. 27, 1999). Section 2.7 of the Guidelines provides that (1) carriers shall establish internal policies and practices for the efficient use and assignment of numbers to end users; (2) that the policies and practices shall balance product specifications, market strategies and customer needs with conservation principles to ensure best practices and number utilization; and (3) that service providers should attempt to assign telephone numbers out of a given block before making assignments out of another block.

(1) All code holders must administer their codes in blocks of one thousand numbers on a rate center basis. All code holders must set aside (i.e., restrict from assignment in their Telephone Number Assignment/Administration systems) all unopened thousands blocks currently assigned to them. A code holder must open one thousands block at a time. All opened thousands blocks should be at least 75 percent full before another thousands block is opened for number assignment. A code holder must refrain from assigning numbers from any thousands block in an NXX with 100 or fewer numbers currently in use (i.e., with a 10 percent or less "contamination" level) until all other opened thousands blocks with more than 10 percent contamination are 75 percent full.

(2) An exception to the above requirement would apply if the code holder could certify, upon request, that opening an additional thousands block is necessary to satisfy a bona fide customer request for a consecutive block of numbers that could not be satisfied in any other way, or to satisfy a customer request for a specific number that cannot be filled from an open thousands block in that NXX. A request for a specific number may only be filled from an open NXX.

Any thousands block management requirement must take into account the varying capabilities of carrier support systems to determine in "real time" the exact utilization of each thousands block in its inventory. Although releasing one thousands block of numbers at a time likely would not be difficult, tracking actual utilization on a thousands block level requires sophisticated data collection and analysis capabilities that may not be available in most carriers' systems at this time. Currently, AT&T must conduct thousands block utilization studies on a manual basis. These manual analyses are further complicated by the fact that utilization rates change on a day-to-day basis due to customer churn. To account for these technical difficulties, the Commission should provide carriers with reasonable time to develop the necessary automated systems to measure utilization on the thousands block level. In the interim, the Commission should require carriers: (a) to maintain intact thousands blocks and to maintain already opened thousands blocks at a ten percent or lower contamination level; and (b) to achieve a 75 percent utilization rate across all opened thousands blocks in an NXX before opening a new thousands block (subject to the exceptions described in point (2), above).

4. Unassigned Number Porting Arrangements Should be Permitted, but not Mandated

While no commenter opposes carriers' ability to enter into voluntary UNP arrangements,[102/] there is considerable debate as to whether UNP should be mandated and by whom.[103/] Similarly, the commenters who support implementing UNP in the near term fail to offer plans outlining how UNP should work.[104/] These comments demonstrate that substantial issues must be resolved before UNP could be imposed on a mandatory basis. Developing a workable policy for imposing UNP would divert time and resources away from implementing more developed and promising number optimization methods, such as thousands block pooling. Once pooling guidelines have been developed and the nationwide roll-out has begun, the

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[102/] While AT&T is opposed to the mandatory implementation of UNP, carriers should be permitted to enter into voluntary UNP arrangements. Accord Comments of Ameritech at 47; Comments of NEXTLINK at 11; Comments of NJBPU at 6. Such agreements have already been reached in many locations with no evidence of adverse consequences.

[103/] Some commenters favor making UNP mandatory. See Comments of Cablevision at 8; Comments of Cox at 9; Comments of MCI WorldCom at 17; Comments of NYDPS at 14. State commissions assert they should have the authority to impose UNP, or to allow voluntary UNP. See Comments of CAPUC at 29-30; Comments of MNDPS at 12; Comments of MPUC at 23; Comments of NCUC at 12.

[104/] See, e.g., Comments of Cablevision at 8 (stating that UNP should be implemented as a temporary numbering solution but failing to provide a specific proposal); Comments of MCI WorldCom at 17; Comments of Qwest at 3.

Commission could turn back to UNP. For the same reasons, AT&T agrees with those commenters who urge the Commission not to pursue ITN pooling at this time.[105/]

B. States Should Review the Possibility for Rate Center Consolidation and Implement it Wherever Feasible

Rate center consolidation ("RCC") received almost universal support as one of the most effective ways to minimize the demand for codes within an NPA.[106/] Some state commissions strongly support RCC as well.[107/] The Colorado Public Utility Commission for instance, successfully consolidated 43 rate centers into 16.[108/] As a result of the consolidation in Colorado, a CLEC seeking to compete in U S West's territory in the 303 area code would need only 11 central office codes, as opposed to the 38 codes that would have been required before

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[105/] See, e.g., Comments of Ameritech at 46; Comments of GTE at 64; Comments of NCUC at 12 (stating that resources are better spent on thousands block pooling at this time); Comments of NJBPU at 6; Comments of SBC at 91; Comments of WinStar at 23. Even those who support ITN pooling agree that it is a long-term solution. See, e.g., Comments of COPUC at 3-4 (stating that the Commission should work toward a long-term goal of ITN pooling which should take 5-7 years from the date of a regulatory order); Comments of MNDPS at 14 (stating that ITN pooling is a long-term solution that should be implemented if technical issues can be resolved); Comments of Comments of MediaOne at 29.

[106/] See Comments of AirTouch at 4; Comments of ALTS at 21; Comments of Ameritech at 31; Comments of BellSouth at 20-21; Comments of Cablevision at 7; Comments of Cincinnati Bell at 10; Comments of Connect and GST at 14; Comments of CTIA at 19; Comments of GTE at 33; Comments of Level 3 at 11; Comments of Liberty Telecom at 3; Comments of MediaOne at 26-27; Comments of Nextel at 14; Comments of NEXTLINK at 7; Comments of OmniPoint at 18; Comments of PrimeCo at 5; Comments of Qwest at 2 (supporting RCC to the extent local calling areas will not be affected); Comments of RCN at 11; Comments of SBA at 8; Comments of SBC at 107 (supporting RCC where consolidation will not significantly affect existing local calling areas and thus would not increase local rates); Comments of Time Warner at 10; Comments of VoiceStream at 22-23; Comments of WinStar at 34 (cautioning that all providers in an affected area must observe the same consolidated rate center boundaries).

[107/] See Comments of COPUC at 9; Comments of MNDPS at 16; Comments of NCUC at 10-11.

[108/] See Comments of COPUC at 8.

consolidation.[109/] Based on its experience, the Colorado commission believes that state commissions should be encouraged to review the potential for consolidation.[110/]

Those parties that express reservations about RCC do so chiefly because of concerns about the complexity of the undertaking and impacts on customers' mix of local and toll calls.[111/] As AT&T has acknowledged in prior pleadings, RCC requires state commissions to make fact-specific determinations and take account of potential effects on both end users and the interexchange market.[112/] AT&T also cautions that RCC may, if implemented too aggressively, complicate future area code relief decisions that might be required to resolve a jeopardy situation within the relevant NPA. However, the comments of the state commissions that have implemented RCC make clear that these issues are far from insurmountable. For example, the Minnesota Department of Public Service reports that it has used rate center consolidation as "an effective number conservation tool" without the negative effects of expanding local calling areas.[113/]

[109/] Id. at 11.

[110/] Id. at 9.

[111/] See, e.g., Comments of CAPUC at 22-24 (stating that RCC cannot be implemented in a revenue-neutral way because ILECs would want to recoup lost toll revenues from basic local services); Comments of the MDTE at 7 (stating that implementing RCC is a lengthy process); Comments of MPUC at 15-18 (stating that, at most, 25 out of Maine's 220 rate centers could be consolidated without impacting local calling areas and basic service rates); Comments of PUCO at 28-29 (stating that the costs of RCC would largely fall upon ILECs); Comments of VASCC at 2 (stating that RCC could adversely affect a company's earnings through loss of toll revenue); Comments of WPSC at 8 (stating that RCC has the potential to cause permanent and profound impacts on the service customers receive).

[112/] See Comments of AT&T at 33-34.

[113/] See Comments of MNDPS at 15-16 (reporting successful results achieved by order the consolidation of all contiguous rate centers with the same local calling scope).

AT&T wholeheartedly agrees with the Colorado and Minnesota commissions that state commissions should be encouraged to use RCC for number optimization purposes. While the ability to implement pooling should not be tied to RCC,[114/] the benefits of pooling would be greatly enhanced if RCC could be accomplished before or simultaneously with it.

C. 10-Digit Dialing has Number Optimization Benefits and is a Necessity for Mitigating the Anticompetitive Effects of Overlays

AT&T urges the Commission to reject proposals to eliminate mandatory 10-digit dialing in areas served by area code overlays.[115/] SBC and the CUB argue that mandatory 10-digit dialing for area code overlays is unnecessary because LNP gives competitive wireline carriers access to all numbers that have been assigned to or reserved by a particular customer.[116/] This argument is meritless, and the Commission has repeatedly rejected it. For one, LNP does not relieve CLECs of the obligation to obtain codes in every rate center in which they wish to provide service. Specifically, customers who are new to an area or existing customers who need second lines will be unable to port numbers from the ILEC's service.[117/] Second, CLECs most

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[114/] Accord Comments of AT&T at 35; Comments of MDTE at 7; Comments of MPUC at 17 (arguing that tying RCC to number pooling would limit a state commission's ability to determine if RCC is viable); Comments of NARUC at 2; Comments of NCUC at 11; Comments of PUCO at 29; Comments of VASCC at 2-3; Comments of WPSC at 8.

[115/] See Comments of Ameritech at 34 (stating that the Commission should reconsider its 10-digit dialing requirement for NPA overlays); Comments of CUB at 38-39; Comments of MNDPS at 10-11; Comments of SBC at 100-102.

[116/] Comments of SBC at 101. See also Comments of CUB at 38-39. SBC contradicts its own claims by arguing on the preceding page that "[t]en-digit dialing is rapidly becoming the norm in urban areas and . . . that ten-digit dialing for all types of calls, even local calls, is inevitable." Comments of SBC at 100.

[117/] See Pennsylvania Public Utility Commission Petition for Expedited Waiver of 47 C.F.R. Section 52.19 for Area Code 412 Relief, Order, 12 FCC Rcd 3783, 3793 ¶ 19 (1997) ("Pennsylvania 10-Digit Dialing Order").

likely will be able to obtain new codes only from the overlay NPA, which will require them to overcome consumer resistance to using two separate area codes in one household or business if they want to supply second-line service.[118/] ILECs do not face this impediment because they have access to "warehoused" numbering resources in the original NPA.[119/] This serious competitive disadvantage should not be compounded by eliminating the 10-digit dialing requirement. As the Commission has previously determined:

> [L]ong-term number portability does not address the anti-competitive impacts of overlays addressed by the 10-digit dialing requirement we imposed. Long-term number portability will reduce some anti-competitive effects of overlays by allowing existing incumbent LEC customers to retain their telephone numbers. . . . Nonetheless, dialing disparity would still exist between the old NPA and the new NPA that would be detrimental to competitive LECs. . . .[120/]

SBC and the CUB also argue that thousands block pooling will dramatically increase the supply of numbers available to participating carriers, thereby reducing the need for mandatory 10-digit dialing.[121/] Pooling will not, however, provide adequate, timely relief for CLECs that need to provide numbers to their customers.[122/] The NANC estimates that pooling will take 18

[118/] The inability to provide second lines within the same NPA is especially serious because many customers often elect to "test" a CLEC's service by obtaining a second line from that carrier rather than switch their main line away from the ILEC initially.

[119/] See Second Local Competition Order at ¶ 289 ("Incumbent LECs have an advantage over new entrants when a new code is about to be introduced, because they can warehouse NXXs in the old NPA. Incumbents also have an advantage when telephone numbers within NXXs in the existing area code are returned to them as their customers move or change carriers.").

[120/] Pennsylvania 10-Digit Dialing Order at 3793 ¶ 19.

[121/] Comments of CUB at 39-40; Comments of SBC at 102.

[122/] As the Commission has previously determined, "a commitment to future implementation of number pooling does not provide a sufficient basis for waiving the ten-digit dialing requirement." New York Department of Public Service Petition for Expedited Waiver of 47 C.F.R. Section 52.19(C)(3)(ii), Order, 13 FCC Rcd 13491, 13496-97 ¶ 10 (1998) ("New York 10-Digit Dialing Order").

months to implement.[123/] It would be unreasonable to handicap competitive carriers in this regard for an extended period, especially at a time when local competition is at last beginning to take root.

Finally, the CUB argues that CLECs have acquired 15 percent of all the NXXs that have been allocated to date, and therefore have sufficient numbers to meet customers' requests in existing NPAs when an overlay occurs.[124/] There is no rational basis on which to decide that 15 percent of allocated NXXs represents a "sufficient" amount of NXXs for CLECs. As an initial matter, nothing in the CUB's analysis even attempts to show whether 15 percent of NXXs would permit CLECs to establish a service footprint in the areas they seek to serve – if anything, the evidence in the record suggests that it plainly is not.[125/] The CUB also misleadingly examines CLECs as a monolithic whole, rather than taking account of how individual CLECs' access to numbering resources compares to that of the ILECs against which they seek to compete. The fact that one CLEC may have obtained an NXX is irrelevant to other CLECs that also wish to provide local exchange services in a particular market. Moreover, under the Commission's current rules, CLECs are entitled to only one NXX in an existing NPA when an overlay is planned.[126/] Given this requirement, the 15 percent figure cited by the CUB presumably includes a significant portion of numbers assigned from overlay NPAs, further undermining the CUB's

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[123/] NRO NPRM at ¶ 158.

[124/] Comments of CUB at 39.

[125/] The Commission has previously rejected the argument that the fact that CLECs have access to one or more NXXs in an existing NPA constitutes grounds for waiver of the 10-digit dialing requirement. See Pennsylvania 10-Digit Dialing Order at ¶ 22 ("[A] competitive LEC's current possession of NXXs in the 412 code is not sufficient to constitute special circumstances that would justify granting the requested waiver of the 10-digit dialing requirement.").

[126/] Second Local Competition Order at 19518 ¶ 286.

argument. The Commission has correctly found that 10-digit dialing is essential to mitigate the anticompetitive impacts of area code overlays.[127/] No pertinent change in circumstances has occurred since the Second Local Competition Order that would merit revising this conclusion.

The Commission also should not overlook the potential benefits of ten-digit dialing as a number conservation measure.[128/] In areas where states have artificially retained 7-digit dialing between NPAs in a local calling area, 10-digit dialing would permit the release of many "protected" NXX codes.[129/] States should be encouraged to take this step.[130/]

AT&T does not, however, advocate that the Commission immediately mandate nationwide 10-digit dialing. As many commenters recognize it is only a matter of time before 10-digit dialing will be implemented on a national basis.[131/] The Commission itself has long

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[127/] Id. See also Pennsylvania Order at 19035, ¶ 40; New York 10-Digit Dialing Order at ¶ 14.

[128/] The exact benefits of 10-digit dialing as a conservation measure, however, are unknown. Because service providers currently can each reuse the same numbers in this range in internal applications, the gain in available NANP resources might be less than the theoretical expectation of 25 percent.

[129/] For example, in the 816 (Missouri) and 913 (Kansas) NPAs, protected codes will be eliminated on December 5, 1999, returning more than five million numbers for assignment in the Kansas City MSA.

[130/] The overwhelming majority of commenters believe that it is premature at this point to address D-digit expansion. See, e.g., Comments of Ameritech at 37; Comments of AT&T at 37; Comments of CAPUC at 25; Comments of Connect and GST at 16; Comments of MPUC at 19; Comments of USTA at 8. While these commenters argue that any optimization solution involving D-digit expansion must be implemented on a national basis, they agree that it is an issue best addressed in the future.

[131/] See Comments of Bell Atlantic at 20 ("Ten digit dialing is not a radical departure from accepted practices. It is simply the next logical step in telephone dialing patterns."); Comments of BellSouth at 16 (stating that the continued protection of seven digit dialing results in number under-utilization); Comments of COPUC at 12; Comments of FLPSC at 10-11; Comments of GTE at 37; Comments of Liberty Telecom at 3 (stating that regulators should recognize that 10-digit dialing is inevitable and state efforts to forestall it are doomed to fail); Comments of U S West at 14.

recognized that 10-digit dialing is "inevitable."[132/] The commenters that oppose 10-digit dialing obliquely refer to attendant disruption and inconvenience, but fail to offer any evidence that suggests that these limited costs outweigh the potential competitive and number optimization benefits of this dialing protocol.[133/] The Commission has repeatedly found that they do not because, in the absence of 10-digit dialing, "customers ultimately would pay the price for the lack of competition in the telecommunications marketplace."[134/] Many areas of the country have implemented 10-digit dialing without incident, and the available evidence suggests that once consumers make the initial adjustment to 10-digit dialing, it rapidly becomes a non-issue. Indeed, the only quantitative evidence on the record was provided by the Colorado Public Utilities Commission, which reports that weeks after implementing mandatory 10-digit dialing throughout the 303 NPA, it had received only three customer complaints.[135/]

D. Carriers Should Not Be Permitted to Opt Out of Number Optimization Measures Based on Utilization Thresholds or Any Other Metric

The commenting parties were virtually unanimous in their opposition to any form of "carrier choice" optimization proposal.[136/] Allowing carriers to avoid participating in

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[132/] See Pennsylvania 10-Digit Dialing Order at 3795 ¶ 23; NY 10-Digit Dialing Order at 13499 n.6.

[133/] See Comments of CAPUC at 24; Comments of Cox at 20 (asserting that 10-digit dialing imposes "societal costs"); Comments of MCI WorldCom at 28; Comments of MediaOne at 28 (stating that the significant confusion and hardship outweigh the benefits of 10-digit dialing); Comments of NYDPS at 16; Comments of RCN at 12.

[134/] Pennsylvania 10-Digit Dialing Order at 3796 ¶ 26.

[135/] See Comments of COPUC at 12.

[136/] See, e.g., Comments of ALTS at 26; Comments of Ameritech at 62; Comments of Bell Atlantic at 37; Comments of GTE at 66-67; Comments of MCI WorldCom at 31; Comments of MPUC at 25; Comments of NCUC at 16; Comments of NYDPS at 17; Comments of PUCO at 35; Comments of USTA at 12; Comments of WPSC at 6.

conservation measures based on their utilization threshold – or for any reason other than the lack of technical capability – would not be competitively neutral. In particular, ILECs are far more likely than CLECs to have high utilization rates in their NXXs because, for more than a century, customers seeking wireline telephone service have had no alternative but to order service from their incumbent monopolist. As the California Public Utilities Commission states, a "'carrier choice'" option would be tantamount to allowing ILECs to do nothing about number conservation.[137/] If the Commission were to adopt carrier choice, its "efforts to achieve greater efficiency in use of numbers would achieve very little, if anything."[138/]

IV. THE COMMISSION SHOULD REITERATE THAT NUMBER OPTIMIZATION IS NOT A SUBSTITUTE FOR AREA CODE RELIEF AND THAT TECHNOLOGY-SPECIFIC OVERLAYS ARE NOT COMPETITIVELY NEUTRAL

It is well-settled that state commissions cannot substitute number conservation for area code relief.[139/] Failing to implement timely area code relief in the hope that unproven number optimization measures might make relief unnecessary is precisely the circumstance that led to the

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[137/] See Comments of the CAPUC at 20 (stating that a carrier choice option would "allow the ILECs not to engage in conservation activities while they continue to control large, unaudited supplies of numbers.").

[138/] Comments of the CAPUC at 20.

[139/] See Pennsylvania Order at 19024-25 ¶ 22 ("Conservation methods are not, however, area code relief and it is important that state commissions recognize that distinction and implement relief when it is necessary."). Id. at 19027-28 ¶¶ 27-28.

Pennsylvania Order.[140/] To ensure that carriers have adequate numbers to meet their customers' demands for service, the Commission has appropriately required that state commissions implement a new area code when an existing NPA nears exhaust.[141/] The commenters that oppose this policy present no arguments that were not thoroughly considered – and rejected – in the Pennsylvania Order. The Commission should take this opportunity to reaffirm this longstanding conclusion. Despite the Commission's repeated rulings, some state commissions apparently seek to forego relief for NPAs that have reached exhaust in the hope that conservation measures, including rationing plans that simply deny numbering resources to carriers that need them, could enable them to avoid authorizing a new NPA.

Virtually every industry commenter urges the Commission to reject proposals in favor of technology-specific overlays.[142/] As the Commission has repeatedly found, service-specific overlays unreasonably discriminate against wireless carriers and thwart the Commission's goals

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[140/] There, the PAPUC implemented conservation measures in lieu of area code relief until the advent of number exhaust compelled the PAPUC to reconsider and initiate conventional relief for area codes 717 and 215/610. See Pennsylvania Order at 19017-20 ¶¶ 12-17. However, because of the PAPUC's delay in establishing an area code relief plan, several area codes completely exhausted well before relief could be implemented. As a result, some carriers have fully depleted their inventories and cannot serve customers or have had to resort to extraordinary means to provide such service.

[141/] See Pennsylvania Order at 19025 ¶ 23.

[142/] See, e.g., Comments of AirTouch at 26; Comments of BellSouth at 19; Comments of Communications Venture Services at 1; Comments of Cox at 24-25; Comments of CTIA at 35-45; Comments of GTE at 74-75; Comments of MCI WorldCom at 64; Comments of Nextel at 24; Comments of PrimeCo at 11; Comments of SBC at 102-103; Comments of USTA at 15; Comments of VoiceStream at 30. See also Comments of COPUC at 13.

of encouraging new services and increased competition.[143/] No party has yet presented any evidence challenging the Commission's prior decisions with respect to technology-specific overlays or provides a reason for the Commission to reconsider its earlier decisions.

Importantly, no commenter has been able to explain how requiring wireless carriers and their customers to bear the costs and inconvenience of a wireless number take back is not discriminatory or how it serves the public interest.[144/] The California commission implies that it would refrain from taking back numbers if a public outcry ensued, yet the commission has seemingly predetermined that wireless consumers would simply "adapt" to the number change.[145/] This is not an adequate basis for the FCC to overturn its finding that wireless-only overlays violate sections 201 and 202 of the Act.

[143/] Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596, 4604-05, ¶ 20 (1995). The Commission confirmed this reasoning one year later finding that a service-specific overlay proposed by the Texas Public Utilities Commission violated the Ameritech Order. Second Local Competition Order at 19508 ¶ 281.

[144/] Unlike wireline phones, which can be assigned to a new NPA without their owners taking action of any sort, in most cases wireless customers assigned to a new number would be required to bring their handsets into service centers for reprogramming. The disruption to consumers and the corresponding cost to the wireless industry, including the loss of goodwill, cannot be overstated. See Comments of AT&T at 70-71.

[145/] See Comments of CAPUC at 49 (arguing that state commissions could "determine the likely consumer response to a reassignment of numbers to a new area code" but noting that numerous customers have had to adjust to number changes resulting from area code splits and "[i]t is not immediately apparent . . . why customers of a particular service . . . could not similarly adapt."). The CAPUC's willingness to force wireless consumers to "adapt" to number changes is curious given the commission's passionate discourse throughout this proceeding concerning the negative consumer impact resulting from frequent number changes. It also is at odds with the position that the CAPUC took in its replies to comments on its waiver petition in which it alleged that it intended no take back of numbers in conjunction with its proposed wireless overlay. See Reply of the California Public Utilities Commission and of the People of the State of California, NSD File No. L-99-929, CC Docket No. 96-98, at 2 (filed June 28, 1999).

Similarly, no one has explained how service-specific overlays can be implemented in a manner that is consistent with the Commission's number optimization goals. In the NPRM, the Commission expressed concern that service-specific overlays might decrease rather than increase the efficiency with which numbering resources are being used, especially given the relatively efficient way that wireless carriers use NXXs over a larger geographic area.[146/] While a few commenters make generalized statements to the effect that service-specific overlays could be employed over multiple NPAs[147/] or on a regional basis,[148/] none provide any details regarding these suggestions or explain how the overlays could be implemented without putting further pressure on the exhaust of the NANP.[149/]

Significantly, none of the commenters explain how a repeat of the "New York experience" could be avoided. Until recently, New York had the only wireless-only overlay in the country. There the 917 code overlaid the 212 NPA (Manhattan) and the 718 NPA (Brooklyn, Queens, and Staten Island). Even after five years, more codes were available in the wireless-only overlay (917) than wireless carriers needed, while not enough codes remained in the wireline NPAs (212 and 718) to meet demand. The New York experience is particularly relevant because the 917 area code overlay encompassed very populous areas served by two area codes, and because New York is the largest wireless market in the country. If a wireless-only overlay was

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[146/] NRO NPRM at ¶ 259.

[147/] See Comments of CAPUC at 45-50.

[148/] See Comments of NCUC at 18.

[149/] Nor did those who favored the establishment of "expanded" overlays explain how to overcome the rating , billing and customer–notfication issues associated with using a single area code to cover a broad geographic area. See Comments of AT&T at 68-69.

not an efficient use of numbers in that setting, it is difficult to see where such an overlay could be employed in a manner that furthers the Commission's number optimization objectives.

The most compelling evidence on this point is that the two states with the most experience with technology-specific overlays, New York and Colorado, have decided not to move forward with them. Although the New York Department of Public Service supports the right of states to employ technology-specific overlays in its comments, in practice, it undid the only wireless-only overlay in the United States earlier this year.[150/] In doing so, the New York commission granted wireless carriers access once again to the 718 area code on the same terms and conditions as wireline carriers.[151/]

Similarly, the Colorado commission held four days of hearings and received extensive comment on the issue of whether it should file a petition with the FCC for a wireless-only overlay of the 303 area code in Denver. After reviewing the record in the case, the Colorado commission ultimately decided not to pursue a technology-specific overlay.[152/] In its comments, the Colorado commission continues to oppose wireless-only overlays, observing that "technology specific overlays degrade the competitive neutrality of area code relief" and may impede the future convergence of wireless and wireline services.[153/]

[150/] Joint Petition of Nextel Communications of Mid-Atlantic, et al., Before the New York Department of Public Service, Case 98-C-1331, Order Granting Petition at 1 (Feb. 3, 1999).

[151/] Id. at 2.

[152/] In the Matter of the Application of Final Recommendation of the Numbering Plan Administrator for relief of the303 Area Code, Docket 97A-103T, Decision No. C98-605 (June 24, 1998).

[153/] See Comments of COPUC at 13.

CONCLUSION

For the foregoing reasons, AT&T urges the Commission to adopt policies that are consistent with its longstanding commitment to maintaining a national framework for number administration. The comments in this proceeding demonstrate broad agreement on numerous key issues, and provide the Commission with an adequate basis to establish the national policies and standards necessary to create a numbering system suited to a competitive telecommunications marketplace.

Respectfully submitted,

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APPENDIX A

For the Commission's convenience, AT&T provides this list of abbreviations it uses to refer to the parties that submitted comments in this proceeding.

1. Ad Hoc Telecommunications Users Committee ("Ad Hoc Users")
2. AirTouch Communications, Inc. ("AirTouch")
3. Ameritech
4. Association for Local Telecommunications Services ("ALTS")
5. AT&T Corp. ("AT&T")
6. Bell Atlantic
7. BellSouth Corporation ("BellSouth")
8. Cablevision Lightpath, Inc. ("Cablevision")
9. California Public Utilities Commission and the People of the State of California ("CAPUC")
10. Cellular Telecommunications Industry Association ("CTIA")
11. Centennial Cellular, *et al.* (Centennial Cellular Corp., CenturyTel Wireless, Inc., Thumb Cellular Limited Partnership, and Trillium Cellular Corp. ("Joint Cellular Carriers"))
12. Choice One Communications Inc. and GST Telecommunications, Inc. ("Choice One and GST")
13. Cincinnati Bell Telephone Company ("Cincinnati Bell")
14. Citizens Utility Board, People of the State of Illinois, the Cook County State's Attorney's Office and the City of Chicago (the "CUB")
15. Colorado Public Utilities Commission ("COPUC")
16. Communications Venture Services, Inc. ("Communications Venture Services")
17. Connect Communications Corporation ("Connect")
18. Connecticut Department of Public Utility Control ("CTDPUC")
19. Cox Communications, Inc. ("Cox")
20. Florida Public Service Commission ("FLPSC")
21. GTE
22. Level 3 Communications, Inc. ("Level 3")
23. Liberty Telecom LLC ("Liberty Telecom")
24. Maine Public Utilities Commission ("MPUC")
25. Massachusetts Department of Telecommunications and Energy ("MDTE")

26. MCI WorldCom, Inc. ("MCI WorldCom")
27. MediaOne Group, Inc. ("MediaOne")
28. Minnesota Department of Public Service ("MNDPS")
29. Missouri Public Service Commission ("MoPSC")
30. National Association of Regulatory Commissioners ("NARUC")
31. National Telephone Cooperative Association ("NTCA")
32. New Hampshire Office of Consumer Advocate ("NHOCA")
33. New Jersey Board of Public Utilities ("NJBPU")
34. New York Department of Public Service ("NYDPS")
35. NexTel Communications, Inc. ("NexTel")
36. NEXTLINK Communications, Inc. ("NEXTLINK")
37. North American Numbering Plan Administrator ("NANPA")
38. North Carolina Utilities Commission ("NCUC")
39. OmniPoint Communications, Inc. ("OmniPoint")
40. Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO")
41. Pennsylvania Public Utility Commission ("PAPUC")
42. Personal Communications Industry Association ("PCIA")
43. PrimeCo Personal Communications, L.P. ("PrimeCo")
44. Public Service Commission of Wisconsin ("WPSC")
45. Public Utilities Commission of Ohio ("PUCO")
46. Qwest Communications Corporation ("Qwest")
47. RCN Telecom Services, Inc. ("RCN")
48. SBC Communications, Inc. ("SBC")
49. Small Business Alliance for Fair Utility Regulation ("SBA")
50. Sprint Corporation ("Sprint")
51. Time Warner Telecom ("Time Warner")
52. U S West Communications, Inc. ("U S West")
53. United States Telephone Association ("USTA")
54. Virginia State Corporation Commission ("VASCC")
55. VoiceStream Wireless Corporation ("VoiceStream")
56. WinStar Communications, Inc. ("WinStar")

August 19, 1999

Charlotte I. Field
Access Management Vice President
Western States & Major ICOs

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Denver, CO 80202
303 298-6556
FAX 303 298-6557

Ms. Beth Halvorson
Vice President – Carrier Markets
U S WEST Communications, Inc.
200 South 5th Street, Suite 2300
Minneapolis, Minnesota 55402

Re: U S WEST's Requirement – One LRN per Rate Center

Dear Beth:

This letter responds to your memo sent via electronic mail on July 29, 1999, where you sought to defend U S WEST's policy requiring all CLECs to establish an LRN per U S WEST toll rate center. As we have discussed before, U S WEST is not in compliance with the INC industry guideline – Location Routing Number Assignment Practices. Your suggestion this guideline is optional is inaccurate and self-serving. Moreover, as U S WEST itself has repeatedly stated, the interconnection agreements require the parties to adhere to industry standards. In fact, many of our interconnection agreements require the parties "use scarce numbering resources efficiently" and comply with code administration requirements prescribed by the FCC, state commissions and accepted industry guidelines. Based on your memo and U S WEST's practice, it appears U S WEST will adhere to industry standards (and the requirements of the interconnection agreements) only when it is convenient for U S WEST.

We have reviewed current switch documentation and it is clear the industry guideline calling for one LRN per LATA per switch is appropriate and technically feasible. All it takes is desire on the part of the carrier owning the switches and proper construction of the routing tables. I understand U S WEST may need to purchase some software and do some programming in its switches, but it is U S WEST's responsibility to do just that to adhere to this very important industry guideline and to properly use the industry's limited numbering resources. It is ironic you refer to the U S WEST network architecture (based upon separation of toll and local traffic) as being a significant (if not the sole) contributing factor to the "significant additional expense" you claim U S WEST will incur to become compliant with industry standards. U S WEST is the only RBOC in the country that established this separation and, as a result, appears to be the only RBOC refusing to adhere to the industry requirements for LRN. In 1997, when U S WEST indicated it would increase the use of local tandems, AT&T objected that this was simply an attempt to slow the entry of local competition. This latest problem, if substantiated, further validates that concern.

In your memo you state, "operational and billing problems that would arise with the use of only one LRN per LATA outweigh any concerns" about impacts to numbering resources. I am confident U S WEST is the only Company to hold this view in light of the fact this policy will impact all the carriers and state commissions in the U S WEST territory. With each CLEC having to use a 10,000 block of numbers per toll rate center in the U S WEST territory, this policy will unnecessarily tie up hundreds of thousands of numbers. I believe the FCC will also take a different view in light of the fact the Section 271 checklist includes items on "numbering resources" and "number portability", both of which are impacted by this U S WEST policy. You state in your memo that if AT&T does not adhere to U S WEST's policy of one LRN per toll rate center, AT&T runs the risk of preventing its customers from receiving calls. Your point of view has clouded your perception of reality. Because U S WEST refuses to adhere to industry guidelines and make proper upgrades to its network (if any are truly needed), U S WEST will block calls to AT&T customers ported away from U S WEST. In fact, AT&T customers have already had this frustrating and extremely disruptive experience. Please refer to my letter dated July 22, 1999, regarding the Pep Boys outage as an example of a more recent adverse customer impact. I know that the AT&T account team at U S WEST has heard of other customer problems resulting from this unreasonable U S WEST policy.

The "learning example" you provided in your memo is extremely unclear. I frankly don't understand how it supports the U S WEST policy. Please provide us with the full set of minutes and identify the carrier representative (including telephone number, e-mail address and company name) who made this statement.

In light of the foregoing, U S WEST is obligated to adhere to the INC guideline and make the changes in its network necessary to accommodate that guideline. Based on your memo, U S WEST is capable of meeting the guideline with some investment in its network. I need to understand what work U S WEST will do to bring its routing tables for LRN into compliance with industry guidelines and its interconnection agreements with AT&T, and how long this will take. AT&T's market entries are being delayed because of U S WEST's failure to comply. Moreover, the ability of our customers to receive calls is being impacted by U S WEST's dismissal of the INC guideline. While U S WEST is working on the permanent solution, I need U S WEST to provide a work around process that will not require AT&T to tie up 10,000 blocks of numbers, but will allow our customers to receive all of the calls placed to them. Please respond by August 26th with U S WEST's plan for meeting these compliance issues and the work around you are able to deploy quickly.

Sincerely,

Charlotte

U S WEST Communications
200 South 5th Street Suite 2300
Minneapolis, MN 55402
Phone 612 663-0499
Fax 612 663-3554

Beth Halverson
Vice President - Account Management
Carrier/Wholesale Division

August 26,1999

VIA FAX

Ms. Charlotte Field
10th Floor
1875 Lawrence Street
Denver, CO 80202

Re: One LRN per Rate Center

Dear Charlotte:

This letter is in response to your letter dated August 19, 1999. As we have previously stated, the INC industry guideline is just that--a guideline, not an industry standard. The requirement of one LRN per rate center (we apologize if the use of the term "toll rate center" was confusing) was discussed and agreed to by the Western Region Operations Committee. AT&T has participated in the Committee meetings. The decision to use one LRN per rate center was based upon operational and customer.

"Rate Center" as used in our Interconnection Agreements means the geographic point and corresponding geographic area which are associated with one or more particular NPA-NXX codes which have been assigned to U S WEST or AT&T for its provision of Basic Exchange Telecommunications Services. A rate center will normally include several Wire Centers within its geographic area, with each Wire Center having one or more NPA-NXXs. For example, per our Colorado Exchange and Network Services Tariff, Section 5, if you have a customer in Lakewood and you want to port the number, you can use your Denver LRN because they are both in the same rate center covering the same geographic area. If you have a customer in Aurora and you want to port the number, you will need a separate LRN since the Aurora rate center includes geographic areas that are not covered by the Denver rate center.

As you know, the Eighth Circuit opinion stated that Co-Providers must take the existing network as it is without significant changes. Thus U S WEST is not required to undertake the enormous task of reconfiguring its network to combine local and toll traffic particularly when other Co-Providers are obtaining one LRN per rate center. We have discussed with you at length the reasons for U S WEST's separation of toll and local, but I will review these reasons once again.

U S WEST's network architecture is the result of sound engineering practice applied to variables such as geography and population density. This diversity of geography combined with the demographics of the territory where seven or eight high density population centers are surrounded by thousands of square miles of very low population density is foundation for the current U S WEST network architecture.

U S WEST's current network architecture employs Access and Local Tandems which provide a separate network for toll and local traffic. Access Tandems are exchange points for toll traffic on a LATA-wide basis. They are the point of interconnection for Interexchange Carriers. Local Tandems are engineered to serve as an exchange point for local traffic and are related to a community of interest. For example, in U S WEST's high population density areas, large local calling areas (LCAs) make the exchange of local traffic through a Local Tandem economically efficient

While other RBOCs have employed a single tandem network architecture, typically their territory and demographics are distinctively different from U S WEST's. U S WEST has separated its toll and local network to provide economic efficiencies to account for these differences. For example, if U S WEST accepted local traffic at its Access Tandem, two issues come to the fore: transport backhaul and grade of service. Today, local traffic is exchanged in the LCA/Extended Area Service (EAS) from which it originates. This eliminates the need to build facilities to handle local traffic beyond the LCA/EAS. Transporting local traffic across an entire LATA through a central Access Tandem creates transport inefficiencies in the form of additional trunks, switch capacity, and trunk length. Furthermore, the grade of service required for toll traffic is higher than that for local traffic. Adding local traffic to the existing toll network creates network inefficiencies by not only increasing trunk quantity requirements but also the potential to negatively impact toll grade of service. This is due in part to higher variability in busy hour and volumes associated with local traffic.

U S WEST is in compliance with the Section 271 numbering requirements.

You can obtain the full set of minutes for the March, 1999 meeting of the Western Region Operations Committee at www.ported.com. The excerpt is relevant to our policy because it demonstrates that another major Co-Provider recognizes the operational problems that will occur if you do not obtain one LRN per rate center.

At this time there does not appear to be a reasonable alternative for a work around. As always we will continue to work with you to meet the needs of both your and our customers as you enter the local markets in U S WEST's region. Per your request, we will be arranging meetings between our technical experts to discuss this issue further.

Sincerely,

Beth Free

CERTIFICATE OF SERVICE

I, Teresa S. Kadlub, hereby certify that on this 30th day of August, 1999, I caused copies of the foregoing "REPLY COMMENTS OF AT&T CORP., to be served by U.S. mail, first class, postage prepaid, or by hand delivery (*) on the following:

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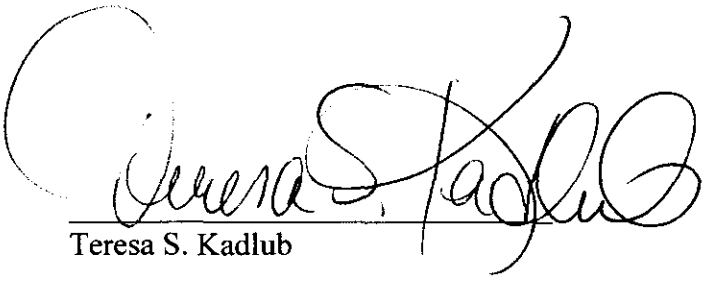

Teresa S. Kadlub

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